

AMENDED IN ASSEMBLY MARCH 29, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2422**

**Introduced by Assembly Member Machado**

February 24, 2000

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An act to amend ~~Section 8555~~ *Sections 8555, 8674, and 8674.5* of the Business and Professions Code, and to add Section 17592.6 to the Education Code, relating to pest control, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2422, as amended, Machado. School facilities: pest control.

(1) Under existing law, the Structural Pest Control Board regulates the practice of structural pest control applicators, defined as any individual who is licensed by the board to apply a pesticide, rodenticide, or allied chemicals or substances for certain purposes. Under existing law, government agencies, state, federal, city, and county officials, and their employees while officially engaged are not subject to regulation as a pest control applicator.

~~Any person who is licensed by the board as a structural pest control applicator is required to pay a license fee, which is deposited in the Structural Pest Control Device Fund, which is a continuously appropriated fund. Any person who pays a certain pesticide use report filing fee required by those provisions~~ is required to pay an additional fee of \$2 for each pesticide use stamp purchased from the board, and this fee is

deposited in the Structural Pest Control Research Fund, which is a continuously appropriated fund. ~~A violation of these provisions is a misdemeanor, punishable by a specified fine or imprisonment, or both. In addition, each person who pays a license fee is required to pay a fee of \$.25 for each property address reported, and this fee is deposited in the Structural Pest Control Device Fund, which is a continuously appropriated fund.~~

This bill would revise that exemption to provide that it does not apply to a school district that is engaged in the practice of structural pest control application at a schoolsite. The bill would require a school district, when performing any of the activities related to structural pest control application, ~~either through a commercial enterprise or its own employees,~~ to ensure that any structural pest control application activity at a school facility is performed by a licensed structural pest control operator, control field representative, or applicator, ~~or an individual who is licensed in residential, industrial, and institutional pest control who meets all requirements otherwise applicable to structural pest control application. This bill would also require any person who performs structural pest control application at a school facility to make a specified reporting to the Department of Pesticide Regulation.~~

~~By increasing the amount of money that is deposited in the Structural Pest Control Device Fund the Structural Pest Control Research Fund which are continuously appropriated funds, the bill would make an appropriation.~~

*The bill would also exempt a school district or its employees from the fees required for each pesticide use stamp purchased from the board and the \$.25 fees required for each property reported by a person licensed by the board.*

(2) Under existing law, a person who is regularly engaged in the business of maintenance gardening and who desires to engage in pest control for hire incidental to that business is required to qualify for a pest control business license in the maintenance gardener category by passing the certified commercial applicators examination.

This bill would require a school district, when performing ~~landscape or garden maintenance at a school facility, either by~~

~~using a commercial business enterprise or its own employees, to ensure that any landscape or gardening maintenance is performed by a person who has obtained a pest control business license in the maintenance gardener category by passing that examination applying pesticides at a school facility that is not part of a structure, to ensure that any pesticide use or pest control operations are performed by a pest control applicator who has a valid private applicator certificate, and who meets all applicable requirements otherwise applicable to that activity. The bill would also require any person who performs landscape or garden maintenance at a school facility to make a specified reporting to the Department of Pesticide Regulation.~~

(3) By imposing new duties on school districts regarding the requirements that school employees must meet in performing the activities described in (1) and (2), the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 8555 of the Business and
- 2 Professions Code is amended to read:
- 3 8555. This chapter does not apply to:

1 (a) Public utilities operating under the regulations of  
2 the Public Utilities Commission, except to work  
3 performed upon property of the utilities not subject to  
4 the jurisdiction of the Public Utilities Commission or work  
5 done by the utility for hire.

6 (b) Persons engaged only in agricultural pest control  
7 work under permit or license by the Department of  
8 Pesticide Regulation or a county agricultural  
9 commissioner.

10 (c) Pest control performed by persons upon property  
11 that they own, lease or rent, except that the persons shall  
12 be subject to the limitations imposed by Article 3 of this  
13 chapter.

14 (d) Governmental agencies, state, federal, city, or  
15 county officials, and their employees while officially  
16 engaged, except that any employee of a school district  
17 who performs any structural pest control application at a  
18 school facility, as defined in Section 17592.6 of the  
19 Education Code, shall be required to obtain a license as  
20 ~~a pest control applicator pursuant to Section 8507.1~~  
21 *pursuant to Sections 8506, 8507, or 8507.1* and shall be  
22 subject to the requirements of this chapter that are  
23 otherwise applicable to that activity.

24 (e) Authorized representatives of an educational  
25 institution or state or federal agency engaged in research  
26 or study of pest control, or engaged in investigation or  
27 preparation for expert opinion or testimony. A  
28 professional engaging in research, study, investigation, or  
29 preparation for expert opinion or testimony on his or her  
30 own behalf shall comply with the requirements of this  
31 chapter.

32 (f) Certified architects and registered civil engineers,  
33 acting solely within their professional capacity, except  
34 that they shall be subject to the limitations imposed by  
35 Article 3 of this chapter.

36 (g) Persons engaged in the live capture and removal  
37 or exclusion of vertebrate pests, bees, or wasps from a  
38 structure without the use of pesticides, provided those  
39 persons maintain insurance coverage as described in  
40 Section 8692. "Vertebrate pests" include, but are not

limited to, bats, raccoons, skunks, and squirrels, but do not include mice, rats, or pigeons. This section does not exempt a person from the provisions of Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

SEC. 2. *Section 8674 of the Business and Professions Code is amended to read:*

8674. The fees prescribed by this chapter are the following:

(a) A duplicate license fee of not more than two dollars (\$2).

(b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).

(c) An operator's examination fee of not more than twenty-five dollars (\$25).

(d) An operator's license fee of not more than one hundred fifty dollars (\$150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).

(f) A company registration fee of not more than one hundred twenty dollars (\$120).

(g) A branch office registration fee of not more than sixty dollars (\$60).

(h) A field representative's examination fee of not more than fifteen dollars (\$15).

(i) A field representative's license fee of not more than forty-five dollars (\$45).

(j) A field representative's license renewal fee of not more than forty-five dollars (\$45).

(k) An applicator's examination fee of not more than fifteen dollars (\$15).

(l) An applicator's license fee of not more than fifty dollars (\$50).

(m) An applicator's license renewal fee of not more than fifty dollars (\$50).

(n) An activity form fee, per property address, of not more than three dollars (\$3).

(o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).

1 (p) A fee for filing a change of a registered company's  
2 name, principal office address, or branch office address,  
3 qualifying manager, or the names of a registered  
4 company's officers, or bond or insurance of not more than  
5 twenty-five dollars (\$25) for each change.

6 (q) A fee for approval of continuing education  
7 providers of not more than fifty dollars (\$50).

8 (r) A pesticide use report filing fee of not more than  
9 five dollars (\$5) for each pesticide use report or  
10 combination of use reports representing a registered  
11 structural pest control company's total county pesticide  
12 use for the month.

13 (s) A fee for approval of continuing education courses  
14 of not more than twenty-five dollars (\$25).

15 (t) (1) Any person who pays a fee pursuant to  
16 subdivision (s), *except a school district or its employees*,  
17 shall, in addition, pay a fee of two dollars (\$2) for each  
18 pesticide use stamp purchased from the board.  
19 Notwithstanding any other provision of law, the fee  
20 established pursuant to this subdivision shall be deposited  
21 with a bank or other depository approved by the  
22 Department of Finance and designated by the Research  
23 Advisory Panel or into the Structural Pest Control  
24 Research Fund which is hereby created and continuously  
25 appropriated to be used only for structural pest control  
26 research. If the Research Advisory Panel designates that  
27 the fees be deposited in an account other than the  
28 Structural Pest Control Research Fund, any moneys in  
29 the fund shall be transferred to the designated account.

30 (2) Prior to the deposit of any funds, the depository  
31 shall enter into an agreement with the Department of  
32 Consumer Affairs that includes, but is not limited to, all  
33 of the following requirements:

34 (A) The depository shall serve as custodian for the  
35 safekeeping of the funds.

36 (B) Funds deposited in the designated account shall  
37 be encumbered solely for the exclusive purpose of  
38 implementing and continuing the program for which  
39 they were collected.

1 (C) Funds deposited in the designated account shall  
2 be subject to an audit at least once every two years by an  
3 auditor selected by the Director of Consumer Affairs. A  
4 copy of the audit shall be provided to the director within  
5 30 days of completion of the audit.

6 (D) The Department of Consumer Affairs shall be  
7 reimbursed for all expenses it incurs that are reasonably  
8 related to implementing and continuing the program for  
9 which the funds were collected in accordance with the  
10 agreement.

11 (E) A reserve in an amount sufficient to pay for costs  
12 arising from unanticipated occurrences associated with  
13 administration of the program shall be maintained in the  
14 designated account.

15 (3) A charge for administrative expenses of the board  
16 in an amount not to exceed 5 percent of the amount  
17 collected and deposited in the Structural Pest Control  
18 Research Fund may be assessed against the fund. The  
19 charge shall be limited to expenses directly related to the  
20 administration of the fund.

21 (4) The board shall, by regulation, establish a  
22 five-member research advisory panel including, but not  
23 limited to, representatives from each of the following: (1)  
24 the Structural Pest Control Board, (2) the structural pest  
25 control industry, (3) the Department of Pesticide  
26 Regulation, and (4) the University of California. The  
27 panel shall solicit and review research proposals for  
28 recommendation to the board. The board shall distribute  
29 funds to qualified applicants, pursuant to the panel's  
30 recommendation, upon a two-thirds vote.

31 *SEC. 3. Section 8674.5 of the Business and Professions*  
32 *Code is amended to read:*

33 8674.5. (a) There is hereby created in the State  
34 Treasury a special fund known as the Structural Pest  
35 Control Device Fund. Each person who pays a license fee  
36 pursuant to this chapter, *except a school district or its*  
37 *employees*, in addition, shall pay a fee of twenty-five cents  
38 (\$0.25) for each property address reported. Funds  
39 derived from the additional twenty-five cents (\$0.25)

1 shall be deposited in the Structural Pest Control Device  
2 Fund.

3 (b) Five percent of the amount collected and  
4 deposited in the Structural Pest Control Device Fund  
5 shall be available to the board for administrative costs  
6 upon appropriation in the annual Budget Act. The  
7 balance in the fund is hereby continuously appropriated  
8 to the Department of Pesticide Regulation for costs  
9 incurred by that department pursuant to Chapter 7.5  
10 (commencing with Section 15300) of Division 7 of the  
11 Food and Agricultural Code.

12 (c) This section shall remain in effect only until  
13 January 1, 2002, and as of that date is repealed, unless a  
14 later enacted statute that is enacted before January 1,  
15 2002, deletes or extends that date.

16 *SEC. 4.* Section 17592.6 is added to the Education  
17 Code, to read:

18 17592.6. (a) ~~(1)~~—A school district, when performing  
19 any of the activities related to ~~structural~~ pest control  
20 application, ~~as described in Section 8507.1 of the Business~~  
21 ~~and Professions Code, either by using a commercial~~  
22 ~~business enterprise or its own employees, at a school~~  
23 ~~facility,~~ shall ensure that any ~~structural~~ pest control  
24 application activity is performed by a ~~structural pest~~  
25 ~~control applicator~~ *an individual* who is licensed pursuant  
26 *to Section 8506, 8507, or 8507.1 of the Business and*  
27 *Professions Code or by an applicator who is licensed*  
28 *pursuant to paragraph (1) of subdivision (a) of Section*  
29 *12203 of the Food and Agricultural Code,* and meets all of  
30 the applicable requirements of Chapter 14 (commencing  
31 with Section 8500) of the Business and Professions Code.

32 ~~(2) Any person performing pest control application~~  
33 ~~pursuant to this section shall, in addition to any other~~  
34 ~~applicable reporting requirements, submit a report to the~~  
35 ~~Department of Pesticide Regulation indicating the date,~~  
36 ~~location, and name of the school facility where the~~  
37 ~~activity was performed, and the amount and type of pest~~  
38 ~~control chemicals and substances used.~~

39 (b) ~~(1)~~—A school district, when performing ~~landscape~~  
40 ~~or garden maintenance at a school facility, either by using~~



~~1 a commercial business enterprise or its own employees  
2 shall ensure that any landscape or gardening  
3 maintenance is performed by a person who has obtained  
4 a pest control business license in the maintenance  
5 gardener category by passing the examination required  
6 by Section 11704 of the Food and Agricultural Code,  
7 applying pesticides at a school facility that is not part of  
8 a structure shall ensure that any pesticide use or pest  
9 control operations are performed by a pest control  
10 applicator who has a valid private applicator certificate  
11 pursuant to Section 14093 of the Food and Agricultural  
12 Code and who meets all applicable requirements  
13 contained in Chapter 4 (commencing with Section  
14 11701) of Division 6 of the Food and Agricultural Code.~~

~~15 (2) Any person performing landscape or garden  
16 maintenance at a school facility pursuant to this section,  
17 shall, in addition to any other applicable reporting  
18 requirements, submit a report to the Department of  
19 Pesticide Regulation indicating the date, location, and  
20 name of the school facility, and the amount and type of  
21 chemicals or other substances used.~~

~~22 (c) For purposes of this section, a “school facility”  
23 means any facility used for kindergarten, elementary, or  
24 secondary school purposes. “School facility” includes all  
25 buildings or structures, playgrounds, athletic fields,  
26 school vehicles, and any surrounding areas of the  
27 schoolsite.~~

~~28 SEC. 3.—~~

~~29 SEC. 5. No reimbursement is required by this act  
30 pursuant to Section 6 of Article XIII B of the California  
31 Constitution for certain costs that may be incurred by a  
32 local agency or school district because in that regard this  
33 act creates a new crime or infraction, eliminates a crime  
34 or infraction, or changes the penalty for a crime or  
35 infraction, within the meaning of Section 17556 of the  
36 Government Code, or changes the definition of a crime  
37 within the meaning of Section 6 of Article XIII B of the  
38 California Constitution.~~

~~39 However, notwithstanding Section 17610 of the  
40 Government Code, if the Commission on State Mandates~~

1 determines that this act contains other costs mandated by  
2 the state, reimbursement to local agencies and school  
3 districts for those costs shall be made pursuant to Part 7  
4 (commencing with Section 17500) of Division 4 of Title  
5 2 of the Government Code. If the statewide cost of the  
6 claim for reimbursement does not exceed one million  
7 dollars (\$1,000,000), reimbursement shall be made from  
8 the State Mandates Claims Fund.

